

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA**

AGENDA ITEM 2

DATE: OCTOBER 23, 2000

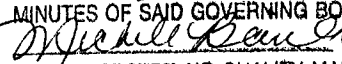
RECOMMENDATION: Set date of November 27, 2000 to conduct a public hearing to consider amendments to Regulation XIII – *New Source Review* and adoption of new Rule 1320 – *New Source Review for Toxic Air Contaminants*.

SUMMARY: This item officially sets the date for the mandatory public hearing to be held regarding proposed amendments to Regulation XIII – *New Source Review* and adoption of new Rule 1320 – *New Source Review for Toxic Air Contaminants*. Regulation XIII is proposed for amendment to clarify certain procedures and to allow the use of area and mobile source emissions reductions as offsets. New Rule 1320 is proposed to implement the mandatory Federal toxic preconstruction review requirement and to clarify the existing district practices regarding toxic air contaminants under the State toxics programs.

BACKGROUND: On March 25, 1996 the MDAQMD Governing Board adopted major amendments and completely reorganized Regulation XIII - *New Source Review*. This reorganized and amended regulation was submitted to U.S. EPA as an amendment to the State Implementation Plan (SIP) and was approved at 40 CFR 51.220(c)(239)(i)(A)(1) (61 FR 58133, 11/13/96). Since that time staff has discovered several procedural changes which are necessary to clarify and streamline the rules. In addition, several provisions are proposed for amendment to clarify and ensure that the Regulation conforms with a variety of Federal and State requirements.

Specifically, the amendments clarify that Major Facilities are required to utilize the most stringent emissions limits or control techniques under Federal law (42 U.S.C. §7503(a)(2), FCAA §173(a)(2)) while Non-major Facilities are required to utilize California Best Available Control Technology for new or modified emissions units with the potential to emit 25 lbs per day or more of nonattainment air pollutants. The amendments also allow the calculation and use of area, indirect and mobile source emissions as offsets or simultaneous emission reductions in compliance with the requirements of Health & Safety Code (H&S Code) §40714.5.

cc: Karen Nowak
File: Rules & Regs.

I, MICHELE BAIRD, CLERK OF THE GOVERNING BOARD OF
MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
DISTRICT, HEREBY CERTIFY THE FOREGOING TO BE A
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The Federal Clean Air Act (FCAA) (42 U.S.C. §7412(g), FCAA §112(g)) requires permitting authorities with approved Title V programs to adopt a toxics pre-construction review program and to certify to the United States Environmental Protection Agency (USEPA) that their program meets these requirements. Failure to comply with this requirement represents an inadequate administration and enforcement of the Title V program and could result in sanctions and various remedies under the FCAA. In addition, the California Health and Safety Code (H & S Code) §39666(e) requires air district new source review rules to require new or modified sources to control emissions of toxic air contaminants. Air districts are also required to implement the Air Toxic "Hot Spots" Information and Assessment Act of 1987 (H & S Code §44300 et seq). The MDAQMD has been implementing these programs administratively utilizing the applicable provisions of Federal and State law and regulation.

In consideration of these requirements staff has developed new Rule 1320 – *New Source Review for Toxic Air Contaminants*. The Federal portions of this rule apply to any new or reconstructed facility or new or modified emissions unit which: a) emits or has the potential to emit 10 tons per year or more of any Hazardous Air Pollutant (HAP); or b) emits or has the potential to emit 25 tons per year or more of any combination of HAPs; or c) has been designated an Air Toxic Area Source by USEPA. The proposed new rule sets forth procedures under which MDAQMD must conduct a Maximum Achievable Control Technology (MACT) analysis for affected sources. As a result, MACT requirements might be added to any Authority to Construct or Permit to Operate issued to the facility/emissions unit.

The State portions of this rule apply to any new or modified facility which: a) emits or has the potential to emit 10 tons per year or more of Criteria Air Pollutants; or b) is listed in Appendix "E" of the *Emissions Inventory Criteria and Guidelines for the Air Toxics "Hot Spots" Program*; or is subject to an Airborne Toxic Control Measure. The new rule provides procedures that are consistent with the implementation of the Air Toxics "Hot Spots" Program, codify the current MDAQMD practices and codify previously adopted action levels and defined terms under the Air Toxics "Hot Spots" program.

The proposed amendments to Regulation XIII – *New Source Review* and adoption of new Rule 1320 – *New Source Review for Toxic Air Contaminants* will be forwarded to USEPA and the California Air Resources Board (CARB) for review. The proposed amendments and new rule will be made available for public comment in compliance with the 30 day notice and comment period requirement.

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Page 3

A Notice of Exemption, a Categorical Exemption (Class 8, Title 14 Cal. Code Reg. §15308) will be prepared by the MDAQMD for the proposed amendments to Regulation XIII – *New Source Review* adoption of new Rule 1320 – *New Source Review for Toxic Air Contaminants* pursuant to the requirements of the California Environmental Quality Act.

REASON FOR RECOMMENDATION: Health & Safety Code §§ 40702 and 40703 require the Governing Board to hold a public hearing before adopting, amending or rescinding rules and regulations. 42 U.S.C. §7410(l) (FCAA §110(l)) requires that all SIP revisions be adopted after public notice and hearing. In addition, 42 U.S.C. §7412(l) (FCAA§112(l)) and regulations promulgated thereunder require that programs adopted to implement the section be adopted after public notice and hearing.

REVIEW BY OTHERS: This agenda item was reviewed by Fazle Rab Quadri, District Counsel on October 5, 2000.

FINANCIAL DATA: No change in appropriation is anticipated for this item.

PRESENTER: Eldon Heaston, Deputy Air Pollution Control Officer

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA
AGENDA ITEM 2**

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**ACTION OF THE GOVERNING BOARD
APPROVED**

Upon Motion by KATHY DAVIS, Seconded by BARBARA RIORDAN, as approved by the following vote:

**Ayes: CRAIN, MUNCY, HANSBERGER, DAVIS, MIKELS, LEONE, HARTZ,
SAGONA, MASKER, RIORDAN, BIGGERS, ROTHSCHILD**

Noes:

Absent: DWYER, WILSON

Abstain:

Vacant:

MICHELE BAIRD, CLERK OF THE GOVERNING BOARD

BY Michele Baird

Dated: OCTOBER 23, 2000

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA**

AGENDA ITEM 8

DATE: NOVEMBER 27, 2000

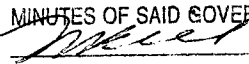
RECOMMENDATION: 1. Open public hearing to consider amendments to Regulation XIII – *New Source Review* and adoption of new Rule 1320 – *New Source Review for Toxic Air Contaminants* and 2. Continue public hearing to January 29, 2001.

SUMMARY: This item opens the public hearing regarding proposed amendments to Regulation XIII – *New Source Review* and adoption of new Rule 1320 – *New Source Review for Toxic Air Contaminants*. Regulation XIII is proposed for amendment to clarify certain procedures and to allow the use of area and mobile source emissions reductions as offsets. New Rule 1320 is proposed to implement the mandatory Federal toxic preconstruction review requirement and to clarify the existing District practices regarding toxic air contaminants under the State toxics programs. A continuance is necessary to allow the District time to allow additional time for comments and to allow for revisions in response to such comments.

BACKGROUND: On March 25, 1996 the MDAQMD Governing Board adopted major amendments and completely reorganized Regulation XIII - *New Source Review*. This reorganized and amended regulation was submitted to U.S. EPA as an amendment to the State Implementation Plan (SIP) and was approved at 40 CFR 51.220(c)(239)(i)(A)(1) (61 FR 58133, 11/13/96). Since that time staff has discovered several procedural changes which are necessary to clarify and streamline the rules. In addition, several provisions are proposed for amendment to clarify and ensure that the Regulation conforms with a variety of Federal and State requirements.

Specifically, the amendments clarify that Major Facilities are required to utilize the most stringent emissions limits or control techniques under Federal law (42 U.S.C. §7503(a)(2), FCAA §173(a)(2)) while Non-major Facilities are required to utilize California Best Available Control Technology for new or modified emissions units with the potential to emit 25 lbs per day or more of nonattainment air pollutants. The amendments also allow the calculation and use of area, indirect and mobile source emissions as offsets or simultaneous emission reductions in compliance with the requirements of Health & Safety Code (H&S Code) §40714.5.

cc: Karen Nowak
File: Rules & Regs.

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In consideration of these requirements staff has developed new Rule 1320 – *New Source Review for Toxic Air Contaminants*. The Federal portions of this rule apply to any new or reconstructed facility or new or modified emissions unit which: a) emits or has the potential to emit 10 tons per year or more of any Hazardous Air Pollutant (HAP); or b) emits or has the potential to emit 25 tons per year or more of any combination of HAPs; or c) has been designated an Air Toxic Area Source by USEPA. The proposed new rule sets forth procedures under which MDAQMD must conduct a Maximum Achievable Control Technology (MACT) analysis for affected sources. As a result, MACT requirements might be added to any Authority to Construct or Permit to Operate issued to the facility/emissions unit.

The State portions of this rule apply to any new or modified facility which: a) emits or has the potential to emit 10 tons per year or more of Criteria Air Pollutants; or b) is listed in Appendix "E" of the *Emissions Inventory Criteria and Guidelines for the Air Toxics "Hot Spots" Program*; or is subject to an Airborne Toxic Control Measure. The new rule provides procedures that are consistent with the implementation of the Air Toxics "Hot Spots" Program, codify the current MDAQMD practices and codify previously adopted action levels and defined terms under the Air Toxics "Hot Spots" program.

The proposed amendments to Regulation XIII – *New Source Review* and adoption of new Rule 1320 – *New Source Review for Toxic Air Contaminants* were forwarded to USEPA and the California Air Resources Board (CARB) for review. The proposed amendments and new rule were made available for public comment in compliance with the 30 day notice and comment period requirement.

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OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA**

AGENDA ITEM 8

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REASON FOR RECOMMENDATION: Health & Safety Code §§ 40702 and 40703 require the Governing Board to hold a public hearing before adopting, amending or rescinding rules and regulations. 42 U.S.C. §7410(l) (FCAA §110(l)) requires that all SIP revisions be adopted after public notice and hearing. In addition, 42 U.S.C. §7412(l) (FCAA§112(l)) and regulations promulgated thereunder require that programs adopted to implement the section be adopted after public notice and hearing.

REVIEW BY OTHERS: This agenda item was reviewed by Fazle Rab Quadri, District Counsel on November 9, 2000.

FINANCIAL DATA: No change in appropriation is anticipated for this item.

PRESENTER: Eldon Heaston, Deputy Air Pollution Control Officer

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA
AGENDA ITEM 8**

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Eldon Heaston provided background information and explained reasons for continuance. Vice-Chair Muncy opened the public hearing.

**ACTION OF THE GOVERNING BOARD
CONTINUED**

Upon Motion by BOB SAGONA, Seconded by ROBERT LEONE, as approved by the following vote:

Ayes: HARTZ, DWYER, HANSBERGER, SAGONA, LEONE, MUNCY,
RIORDAN, MASKER, BIGGERS, MIKELS, ROTHSCHILD

Noes:

Absent: WILSON, CRAIN, DAVIS

Abstain:

Vacant:

MICHELE BAIRD, CLERK OF THE GOVERNING BOARD

BY *Michele Baird*

Dated: NOVEMBER 27, 2000

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA**

AGENDA ITEM 15

DATE: JANUARY 29, 2001

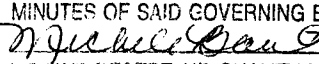
RECOMMENDATION: 1. Conduct continued public hearing to consider amendments to Regulation XIII – *New Source Review* and adoption of new Rule 1320 – *New Source Review for Toxic Air Contaminants* and 2. Continue public hearing to March 26, 2001.

SUMMARY: This item continues the public hearing regarding proposed amendments to Regulation XIII – *New Source Review* and adoption of new Rule 1320 – *New Source Review for Toxic Air Contaminants*. Regulation XIII is proposed for amendment to clarify certain procedures and to allow the use of area and mobile source emissions reductions as offsets. New Rule 1320 is proposed to implement the mandatory Federal toxic preconstruction review requirement and to clarify the existing District practices regarding toxic air contaminants under the State toxics programs. A continuance is necessary to allow the District time to allow additional time to allow for revisions in response to such comments.

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Cc: Karen Nowak
File: Rules & Regs.

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AGENDA ITEM 15

Page 2

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In consideration of these requirements staff has developed new Rule 1320 – *New Source Review for Toxic Air Contaminants*. The Federal portions of this rule apply to any new or reconstructed facility or new or modified emissions unit which: a) emits or has the potential to emit 10 tons per year or more of any Hazardous Air Pollutant (HAP); or b) emits or has the potential to emit 25 tons per year or more of any combination of HAPs; or c) has been designated an Air Toxic Area Source by USEPA. The proposed new rule sets forth procedures under which MDAQMD must conduct a Maximum Achievable Control Technology (MACT) analysis for affected sources. As a result, MACT requirements might be added to any Authority to Construct or Permit to Operate issued to the facility/emissions unit.

The State portions of this rule apply to any new or modified facility which: a) emits or has the potential to emit 10 tons per year or more of Criteria Air Pollutants; or b) is listed in Appendix "E" of the *Emissions Inventory Criteria and Guidelines for the Air Toxics "Hot Spots" Program*; or is subject to an Airborne Toxic Control Measure. The new rule provides procedures that are consistent with the implementation of the Air Toxics "Hot Spots" Program, codify the current MDAQMD practices and codify previously adopted action levels and defined terms under the Air Toxics "Hot Spots" program.

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Dated: JANUARY 29, 2001

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA**

AGENDA ITEM 12

DATE: MARCH 26, 2001

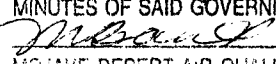
RECOMMENDATION: 1. Conduct continued public hearing to consider amendments to Regulation XIII – *New Source Review* and adoption of new Rule 1320 – *New Source Review for Toxic Air Contaminants* and 2. Continue public hearing to April 23, 2001

SUMMARY: This item continues the public hearing regarding proposed amendments to Regulation XIII – *New Source Review* and adoption of new Rule 1320 – *New Source Review for Toxic Air Contaminants*. Regulation XIII is proposed for amendment to clarify certain procedures and to allow the use of area and mobile source emissions reductions as offsets. New Rule 1320 is proposed to implement the mandatory Federal toxic preconstruction review requirement and to clarify the existing District practices regarding toxic air contaminants under the State toxics programs. A continuance is necessary to allow the District time to revise proposed new rule 1320 in response to late comments.

BACKGROUND: On March 25, 1996 the MDAQMD Governing Board adopted major amendments and completely reorganized Regulation XIII - *New Source Review*. This reorganized and amended regulation was submitted to U.S. EPA as an amendment to the State Implementation Plan (SIP) and was approved at 40 CFR 51.220(c)(239)(i)(A)(1) (61 FR 58133, 11/13/96). Since that time staff has discovered several procedural changes which are necessary to clarify and streamline the rules. In addition, several provisions are proposed for amendment to clarify and ensure that the Regulation conforms with a variety of Federal and State requirements.

Specifically, the amendments clarify that Major Facilities are required to utilize the most stringent emissions limits or control techniques under Federal law (42 U.S.C. §7503(a)(2), FCAA §173(a)(2)) while Non-major Facilities are required to utilize California Best Available Control Technology for new or modified emissions units with the potential to emit 25 lbs per day or more of nonattainment air pollutants. The amendments also allow the calculation and use of area, indirect and mobile source emissions as offsets or simultaneous emission reductions in compliance with the requirements of Health & Safety Code (H&S Code) §40714.5.

Cc: Karen Nowak
File: Rules & Regs.

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AGENDA ITEM 12

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REVIEW BY OTHERS: This agenda item was reviewed by Fazle Rab Quadri, District Counsel on March 9, 2001

FINANCIAL DATA: No change in appropriation is anticipated for this item.

PRESENTER: Eldon Heaston, Deputy Air Pollution Control Officer

**MINUTES OF THE GOVERNING BOARD
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VICTORVILLE, CALIFORNIA**

AGENDA ITEM 12

Page 4

Karen Nowak, Deputy District Counsel, provided background information and requested the public hearing be continued to June 25, 2001.

**ACTION OF THE GOVERNING BOARD
CONTINUED TO JUNE 25, 2001**

Upon Motion by PAUL LUELLIG, Seconded by D.J. MASKER, as approved by the following vote:

**Ayes: 13 LEONE, POSTMUS, HANSBERGER, MIKELS, SAGONA,
MASKER, RIORDAN, HARTZ, HONEYCUTT, LUELLIG, CRAIN,
ROTHSCHILD, DWYER.**

Noes:

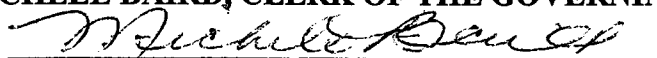
Absent: 1 WILSON

Abstain:

Vacant:

MICHELE BAIRD, CLERK OF THE GOVERNING BOARD

BY



Dated: MARCH 26, 2001

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA**

AGENDA ITEM 13

DATE: JUNE 25, 2001

RECOMMENDATION: 1. Conduct continued public hearing to consider amendments to Regulation XIII – *New Source Review* and adoption of new Rule 1320 – *New Source Review for Toxic Air Contaminants* and 2. Continue public hearing to August 27, 2001


SUMMARY: This item continues the public hearing regarding proposed amendments to Regulation XIII – *New Source Review* and adoption of new Rule 1320 – *New Source Review for Toxic Air Contaminants*. Regulation XIII is proposed for amendment to clarify certain procedures and to allow the use of area and mobile source emissions reductions as offsets. New Rule 1320 is proposed to implement the mandatory Federal toxic preconstruction review requirement and to clarify the existing District practices regarding toxic air contaminants under the State toxics programs. A continuance is necessary to allow the District time to revise proposed new rule 1320 in response to late comments.

CONFLICT OF INTEREST: No conflict, exemption applies.

BACKGROUND: On March 25, 1996 the MDAQMD Governing Board adopted major amendments and completely reorganized Regulation XIII - *New Source Review*. This reorganized and amended regulation was submitted to U.S. EPA as an amendment to the State Implementation Plan (SIP) and was approved at 40 CFR 51.220(c)(239)(i)(A)(1) (61 FR 58133, 11/13/96). Since that time staff has discovered several procedural changes which are necessary to clarify and streamline the rules. In addition, several provisions are proposed for amendment to clarify and ensure that the Regulation conforms with a variety of Federal and State requirements.

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Cc: Karen Nowak
File: Rules & Regs.

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VICTORVILLE, CALIFORNIA**

AGENDA ITEM 13

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The Federal Clean Air Act (FCAA) (42 U.S.C. §7412(g), FCAA §112(g)) requires permitting authorities with approved Title V programs to adopt a toxics pre-construction review program and to certify to the United States Environmental Protection Agency (USEPA) that their program meets these requirements. Failure to comply with this requirement represents an inadequate administration and enforcement of the Title V program and could result in sanctions and various remedies under the FCAA. In addition, the California Health and Safety Code (H & S Code) §39666(e) requires air district new source review rules to require new or modified sources to control emissions of toxic air contaminants. Air districts are also required to implement the Air Toxic "Hot Spots" Information and Assessment Act of 1987 (H & S Code §44300 et seq). The MDAQMD has been implementing these programs administratively utilizing the applicable provisions of Federal and State law and regulation.

In consideration of these requirements staff has developed new Rule 1320 – *New Source Review for Toxic Air Contaminants*. The Federal portions of this rule apply to any new or reconstructed facility or new or modified emissions unit which: a) emits or has the potential to emit 10 tons per year or more of any Hazardous Air Pollutant (HAP); or b) emits or has the potential to emit 25 tons per year or more of any combination of HAPs; or c) has been designated an Air Toxic Area Source by USEPA. The proposed new rule sets forth procedures under which MDAQMD must conduct a Maximum Achievable Control Technology (MACT) analysis for affected sources. As a result, MACT requirements might be added to any Authority to Construct or Permit to Operate issued to the facility/emissions unit.

The State portions of this rule apply to any new or modified facility which: a) emits or has the potential to emit 10 tons per year or more of Criteria Air Pollutants; or b) is listed in Appendix "E" of the *Emissions Inventory Criteria and Guidelines for the Air Toxics "Hot Spots" Program*; or is subject to an Airborne Toxic Control Measure. The new rule provides procedures for analysis of new sources that are consistent with the implementation of the Air Toxics "Hot Spots" Program, codify the current MDAQMD practices and codify previously adopted action levels and defined terms under the Air Toxics "Hot Spots" program.

The proposed amendments to Regulation XIII – *New Source Review* and adoption of new Rule 1320 – *New Source Review for Toxic Air Contaminants* were forwarded to USEPA and the California Air Resources Board (CARB) for review. The proposed amendments and new rule were made available for public comment in compliance with the 30 day notice and comment period requirement.

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA**

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A Notice of Exemption, a Categorical Exemption (Class 8, Title 14 Cal. Code Reg. §15308) will be prepared by the MDAQMD for the proposed amendments to Regulation XIII – *New Source Review* adoption of new Rule 1320 – *New Source Review for Toxic Air Contaminants* pursuant to the requirements of the California Environmental Quality Act.

REASON FOR RECOMMENDATION: Health & Safety Code §§ 40702 and 40703 require the Governing Board to hold a public hearing before adopting, amending or rescinding rules and regulations. 42 U.S.C. §7410(l) (FCAA §110(l)) requires that all SIP revisions be adopted after public notice and hearing. In addition, 42 U.S.C. §7412(l) (FCAA§112(l)) and regulations promulgated thereunder require that programs adopted to implement the section be adopted after public notice and hearing.

REVIEW BY OTHERS: This agenda item was reviewed by Fazle Rab Quadri, District Counsel on June 12, 2001

FINANCIAL DATA: No change in appropriation is anticipated for this item.

PRESENTER: Eldon Heaston, Deputy Air Pollution Control Officer.

ACTION OF THE GOVERNING BOARD

CONTINUED TO AUGUST 27, 2001

Upon Motion by D.J. MASKER, Seconded by TED HARTZ, as approved by the following vote:

**Ayes: 10 HARTZ, DWYER, HANSBERGER, POSTMUS, LEONE,
RIORDAN, NOWICKI, LUELLIG, MASKER, MIKELS**

Noes:

Absent: 4 WILSON, SAGONA, CRAIN, ROTHSCCHILD

Abstain:

Vacant:

MICHELE BAIRD, CLERK OF THE GOVERNING BOARD

BY *Michele Baird*

Dated: JUNE 25, 2001

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA**

AGENDA ITEM 13

DATE: AUGUST 27, 2001

RECOMMENDATION: 1. Conduct continued public hearing to consider amendments to Regulation XIII – *New Source Review* and adoption of new Rule 1320 – *New Source Review for Toxic Air Contaminants* and 2. Continue public hearing to September 24, 2001

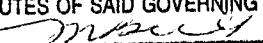
SUMMARY: This item continues the public hearing regarding proposed amendments to Regulation XIII – *New Source Review* and adoption of new Rule 1320 – *New Source Review for Toxic Air Contaminants*. Regulation XIII is proposed for amendment to clarify certain procedures and to allow the use of area and mobile source emissions reductions as offsets. New Rule 1320 is proposed to implement the mandatory Federal toxic preconstruction review requirement and to clarify the existing District practices regarding toxic air contaminants under the State toxics programs. A continuance is necessary to allow the District time to revise proposed new rule 1320 in response to comments from CARB.

CONFLICT OF INTEREST: No conflict, exception applies.

BACKGROUND: On March 25, 1996 the MDAQMD Governing Board adopted major amendments and completely reorganized Regulation XIII - *New Source Review*. This reorganized and amended regulation was submitted to U.S. EPA as an amendment to the State Implementation Plan (SIP) and was approved at 40 CFR 51.220(c)(239)(i)(A)(1) (61 FR 58133, 11/13/96). Since that time staff has discovered several procedural changes which are necessary to clarify and streamline the rules. In addition, several provisions are proposed for amendment to clarify and ensure that the Regulation conforms with a variety of Federal and State requirements.

Specifically, the amendments clarify that Major Facilities are required to utilize the most stringent emissions limits or control techniques under Federal law (42 U.S.C. §7503(a)(2), FCAA §173(a)(2)) while Non-major Facilities are required to utilize California Best Available Control Technology for new or modified emissions units with the potential to emit 25 lbs per day or more of nonattainment air pollutants. The amendments also allow the calculation and use of area, indirect and mobile source emissions as offsets or simultaneous emission reductions in compliance with the requirements of Health & Safety Code (H&S Code) §40714.5.

Cc: Karen Nowak
File: Rules & Regs.

I, MICHELE BAIRD, CLERK OF THE GOVERNING BOARD OF
MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
DISTRICT, HEREBY CERTIFY THE FOREGOING TO BE A
FULL, TRUE AND CORRECT COPY OF THE RECORD OF
THE ACTION AS THE SAME APPEARS IN THE OFFICIAL
MINUTES OF SAID GOVERNING BOARD MEETING
 CLERK OF THE BOARD
MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA**

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The Federal Clean Air Act (FCAA) (42 U.S.C. §7412(g), FCAA §112(g)) requires permitting authorities with approved Title V programs to adopt a toxics pre-construction review program and to certify to the United States Environmental Protection Agency (USEPA) that their program meets these requirements. Failure to comply with this requirement represents an inadequate administration and enforcement of the Title V program and could result in sanctions and various remedies under the FCAA. In addition, the California Health and Safety Code (H & S Code) §39666(e) requires air district new source review rules to require new or modified sources to control emissions of toxic air contaminants. Air districts are also required to implement the Air Toxic "Hot Spots" Information and Assessment Act of 1987 (H & S Code §44300 et seq). The MDAQMD has been implementing these programs administratively utilizing the applicable provisions of Federal and State law and regulation.

In consideration of these requirements staff has developed new Rule 1320 – *New Source Review for Toxic Air Contaminants*. The Federal portions of this rule apply to any new or reconstructed facility or new or modified emissions unit which: a) emits or has the potential to emit 10 tons per year or more of any Hazardous Air Pollutant (HAP); or b) emits or has the potential to emit 25 tons per year or more of any combination of HAPs; or c) has been designated an Air Toxic Area Source by USEPA. The proposed new rule sets forth procedures under which MDAQMD must conduct a Maximum Achievable Control Technology (MACT) analysis for affected sources. As a result, MACT requirements might be added to any Authority to Construct or Permit to Operate issued to the facility/emissions unit.

The State portions of this rule apply to any new or modified facility which: a) emits or has the potential to emit 10 tons per year or more of Criteria Air Pollutants; or b) is listed in Appendix "E" of the *Emissions Inventory Criteria and Guidelines for the Air Toxics "Hot Spots" Program*; or is subject to an Airborne Toxic Control Measure. The new rule provides procedures for analysis of new sources that are consistent with the implementation of the Air Toxics "Hot Spots" Program, codify the current MDAQMD practices and codify previously adopted action levels and defined terms under the Air Toxics "Hot Spots" program.

The proposed amendments to Regulation XIII – *New Source Review* and adoption of new Rule 1320 – *New Source Review for Toxic Air Contaminants* were forwarded to USEPA and the California Air Resources Board (CARB) for review. The proposed amendments and new rule were made available for public comment in compliance with the 30 day notice and comment period requirement.

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VICTORVILLE, CALIFORNIA**

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A Notice of Exemption, a Categorical Exemption (Class 8, Title 14 Cal. Code Reg. §15308) will be prepared by the MDAQMD for the proposed amendments to Regulation XIII – *New Source Review* adoption of new Rule 1320 – *New Source Review for Toxic Air Contaminants* pursuant to the requirements of the California Environmental Quality Act.

REASON FOR RECOMMENDATION: Health & Safety Code §§ 40702 and 40703 require the Governing Board to hold a public hearing before adopting, amending or rescinding rules and regulations. 42 U.S.C. §7410(l) (FCAA §110(l)) requires that all SIP revisions be adopted after public notice and hearing. In addition, 42 U.S.C. §7412(l) (FCAA§112(l)) and regulations promulgated thereunder require that programs adopted to implement the section be adopted after public notice and hearing.

REVIEW BY OTHERS: This agenda item was reviewed by Fazle Rab Quadri, District Counsel on July 10, 2001

FINANCIAL DATA: No change in appropriation is anticipated for this item.

PRESENTER: Eldon Heaston, Deputy Air Pollution Control Officer

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA**

AGENDA ITEM 13

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**ACTION OF THE GOVERNING BOARD
CONTINUED TO SEPTEMBER 24, 2001**

**Upon Motion by BILL POSTMUS, Seconded by BOB SAGONA, as approved by
the following vote:**

**Ayes: 11 WILSON, HARTZ, DWYER, SAGONA, POSTMUS, LEONE,
MASKER, RIORDAN, LUELLIG, NOWICKI,
ROTHSCHILD**

Noes:

Absent: 3 HANSBERGER, CRAIN, MIKELS.

Abstain:

Vacant:

MICHELE BAIRD, CLERK OF THE GOVERNING BOARD

BY Michele Baird

Dated: August 27, 2001

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA**

AGENDA ITEM 12

DATE: SEPTEMBER 24, 2001

RECOMMENDATION: 1. Conduct continued public hearing to consider amendments to Regulation XIII – *New Source Review* and adoption of new Rule 1320 – *New Source Review for Toxic Air Contaminants*; 2. Make a determination that the CEQA categorical Exemption applies; and 3. Adopt a resolution making appropriate findings, certifying the Notice of Exemption, adopting amendments and new rule and directing staff actions.

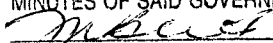
SUMMARY: Regulation XIII is proposed for amendment to clarify certain procedures and to allow the use of area and mobile source emissions reductions as offsets. New Rule 1320 is proposed to implement the mandatory Federal toxic preconstruction review requirement and to clarify the existing District practices regarding toxic air contaminants under the State toxics programs.

CONFLICT OF INTEREST: Conflict unlikely because "...decision will affect an industry, trade or profession in substantially the same manner as the decision will affect an official's economic interest..." (2 Cal. Code Reg. §18707.7). Please seek advice for questions regarding this exception and its application.

BACKGROUND: On March 25, 1996 the MDAQMD Governing Board adopted major amendments and completely reorganized Regulation XIII - *New Source Review*. This reorganized and amended regulation was submitted to U.S. EPA as an amendment to the State Implementation Plan (SIP) and was approved at 40 CFR 51.220(c)(239)(i)(A)(1) (61 FR 58133, 11/13/96). Since that time staff has discovered several procedural changes which are necessary to clarify and streamline the rules. In addition, several provisions are proposed for amendment to clarify and ensure that the Regulation conforms with a variety of Federal and State requirements.

Specifically, the amendments clarify that Major Facilities are required to utilize the most stringent emissions limits or control techniques under Federal law (42 U.S.C. §7503(a)(2), FCAA §173(a)(2)) while Non-major Facilities are required to utilize California Best Available Control Technology for new or modified emissions units with the potential to emit 25 lbs per day or more of nonattainment air pollutants. The amendments also allow the calculation and use of area, indirect and mobile source emissions as offsets or simultaneous emission reductions in compliance with the requirements of Health & Safety Code (H&S Code) §40714.5.

Cc: Karen Nowak
File: Rules & Regs.
Resolutions

I, MICHELE BAIRD, CLERK OF THE GOVERNING BOARD OF
MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
DISTRICT, HEREBY CERTIFY THE FOREGOING TO BE A
FULL, TRUE AND CORRECT COPY OF THE RECORD OF
THE ACTION AS THE SAME APPEARS IN THE OFFICIAL
MINUTES OF SAID GOVERNING BOARD MEETING
 CLERK OF THE BOARD
MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA**

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**MINUTES OF THE GOVERNING BOARD
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VICTORVILLE, CALIFORNIA**

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Advisory Committee on September 11, 2000; November 13, 2000; January 8, 2001; March 12, 2001; May 14, 2001; and September 10, 2001.

A Notice of Exemption, a Categorical Exemption (Class 8, Title 14 Cal. Code Reg. §15308) will be prepared by the MDAQMD for the proposed amendments to Regulation XIII – *New Source Review* adoption of new Rule 1320 – *New Source Review for Toxic Air Contaminants* pursuant to the requirements of the California Environmental Quality Act.

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REVIEW BY OTHERS: This agenda item was reviewed by Fazle Rab Quadri, District Counsel on September 10, 2001

FINANCIAL DATA: No change in appropriation is anticipated for this item.

PRESENTER: Eldon Heaston, Deputy Air Pollution Control Officer.

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA**

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Eldon Heaston, Deputy APCO, provided background information and staff recommendation. Chair Leone opened the public hearing and solicited public comment. None being, the Chair closed the public hearing.

ACTION OF THE GOVERNING BOARD

APPROVED AND ADOPTED

Upon Motion by PETE DWYER, Seconded by MIKE ROTHSCCHILD, as approved by the following vote:

Ayes: 12 LEONE, POSTMUS, MIKELS, SAGONA, MASKER, RIORDAN, NOWICKI, LUELLIG, ROTHSCCHILD, DWYER, HANSBERGER, HARTZ

Noes:

Absent: 2 WILSON, CRAIN

Abstain:

Vacant:

MICHELE BAIRD, CLERK OF THE GOVERNING BOARD

BY *Michele Baird*

Dated: SEPTEMBER 24, 2001

Ref: Resolution 01-08, titled, "A RESOLUTION OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT MAKING FINDINGS, CERTIFYING THE NOTICE OF EXEMPTION, AMENDING REGULATION XIII - NEW SOURCE REVIEW, ADOPTING NEW RULE 1320 - NEW SOURCE REVIEW FOR TOXIC AIR CONTAMINANTS, AND DIRECTING STAFF ACTIONS".